

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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In the Matter of WAYNE ALAN CORNELIUS and  
TAMMY ANN CORNELIUS, Minors.

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FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RAYMOND JOSEPH CORNELIUS and TAMMY  
LYNN CORNELIUS,

Respondents-Appellants.

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UNPUBLISHED

September 15, 2000

No. 226499

Osceola Circuit Court

Family Division

LC No. 96-002523-NA

Before: Doctoroff, P.J., and Holbrook, Jr. and Smolenski, JJ.

PER CURIAM.

Respondents-appellants Raymond Joseph Cornelius and Tammy Lynn Cornelius appeal by right from a family court order terminating their parental rights to their two minor children, Wayne Alan Cornelius (DOB 06/18/95) and Tammy Ann Cornelius (DOB 05/23/97), pursuant to MCL 712A.19b; MSA 27.3178(598.19b). We affirm.

In a termination proceeding, the petitioner bears the burden of demonstrating a statutory basis for termination, by clear and convincing evidence. MCR 5.974(F)(3). Once a statutory basis for termination is shown, the trial court shall terminate parental rights unless it finds that doing so is clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, 462 Mich 341, 354; 612 NW2d 407 (2000). Respondents stipulated at trial that a statutory ground for termination had been established, specifically MCL 712A.19b(3)(c)(i); MSA 27.3178(598.19b)(3)(c)(i). Given this stipulation, the trial court was required to terminate respondents' parental rights unless it found that termination was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5). We review the trial court's decision for clear error. MCR 5.974(I); *In re Trejo Minors*, *supra* at 356.

In this case, the trial court was only required to decide whether termination was clearly not in the children's best interests. MCL 712A.19b(5); MSA 27.3178(598.19b)(5); *In re Trejo Minors*, *supra* at 357. As in the *Trejo* case, the trial court went further than required when it affirmatively found that termination was in the children's best interests. *Id.* Nevertheless, we do not believe that the trial court clearly erred in determining the children's best interests and in terminating respondents' parental rights.

First, the trial court did not err in considering the entire case record to make its factual findings regarding the children's best interests. The statute, MCL 712A.19b(5); MSA 27.3178(598.19b)(5), "permits the court to find from evidence on the whole record that termination is clearly not in a child's best interests." *In re Trejo Minors*, *supra* at 353. Therefore, the trial court was not limited to considering only respondents' actions in the months following the trial court's decision that a statutory basis for termination existed.

Second, respondents incorrectly argue that the order of proofs on the second day of trial was prejudicial. Our Supreme Court recently clarified that the statute does not require the respondents in a termination proceeding to present any additional evidence on the best interest factors, and does not impose any burden of proof on the respondents. *Id.* at 352. Because respondents did not bear the burden of proof regarding the children's best interests, respondents were not prejudiced by the order of proofs at trial.

Finally, the trial court did not err when it based its findings regarding the children's best interests on the factors contained in the Child Custody Act. When deciding whether to terminate parental rights, a trial court is not required to make factual findings with regard to the best interests factors of the Child Custody Act, MCL 722.23; MSA 25.312(3). *In re JS & SM*, 231 Mich App 92, 102; 585 NW2d 326 (1998). However, it is perfectly appropriate for a trial court to consider many of the concerns underlying those best interests factors in deciding whether to terminate parental rights, and appropriate for a trial court to refer directly to the pertinent best interests factors in the Child Custody Act in making a determination concerning whether termination of parental rights is clearly not in the child's best interests. *Id.* at 102-103.

Based on our review of the record, we are convinced that the circuit court did not commit clear error in determining the children's best interests and in terminating respondents' parental rights.

Affirmed.

/s/ Martin M. Doctoroff  
/s/ Donald E. Holbrook, Jr.  
/s/ Michael R. Smolenksi